

---

Committee on the Elimination of  
Discrimination against Women  
Fourth session

21 January - 1 February 1985

Excerpted from: Supplement No. 45 (A/40/45)

Concluding comments of the Committee on the Elimination of  
Discrimination against Women: Austria

Initial report

180. The Committee considered the initial report of Austria (CEDAW/C/5/Add.17) at its 51st, 55th and 56th meetings, on 24 and 28 January 1985 (CEDAW/C/SR.51, 55, 56 and 62).

181. The representative of the State party began his introduction with some remarks on the reporting system under the Convention, which placed a heavy burden, in terms of budget and work, on Member States. Such a burden weighed all the heavier in the case of countries that had only limited technical and administrative resources or whose official language was not one of the official working languages of the United Nations.

182. He presented additional information on the most recent events, which could not have been incorporated in the report.

183. He mentioned the seminar on the economic role of women in the Economic Commission for Europe region, which was held in Austria in October 1984 at the

invitation of the Austrian Government by saying that many of its recommendations provided for action to compliment the provisions of the Convention. He highlighted the main constitutional provisions that guaranteed equality between the sexes in Austria and spoke about the extensive case law that was consequently developed by the Constitutional Court, which was guided by the principle that unequal treatment of women and men was only justified where objectively justifiable reasons existed. Those constitutional provisions were binding on lawmakers, the administration and the judiciary, and upon ratification of the Convention, article 4 was given the rank of constitutional law.

184. He then reported on a number of concrete measures and initiatives taken by his Government on behalf of women in recent months. One of them was a campaign to change traditional and stereotyped attitudes towards jobs and raise the awareness of young women to take up unconventional work. Another was a programme for the promotion of women in the civil service adopted by the Government, which proved successful. He underlined the clearing house function of the Office of the State Secretary for General Questions relating to Women in the Federal Chancellery. He also emphasized that the Government and its agencies were by far the largest employers in Austria and their measures had an immediate impact on the overall situation of women in the country. Other measures referred to helping abused women, women released from prison and women seeking divorce, sexual violence against women and related legislative measures. Besides the various government actions, he referred to private initiatives that merited full government support.

185. The representative of the State party presented some statistical data on women in public political life. He said that 1 out of 15 ministers and 2 out of 6 state secretaries were women; 20 out of 183 Members of Parliament and 10 out of 63 members of the second chamber, the "Bundesrat", were women. The percentage of women in the diets, the "Landtage", ranged from 2.8 per cent to 18 per cent. The members of all those bodies were elected by equal suffrage; their composition reflected the conventional attitudes of the population, which the Government was attempting to change. In addition to the various measures undertaken domestically, Austria was also actively involved in promoting equal opportunities for women at international forums.

186. The majority of members of the Committee congratulated the representative of Austria on his excellent introductory statement, which complemented the information supplied in the written report. They were impressed with the quality and quantity of programmes, which demonstrated the seriousness attached by the country to the Convention and the desire to change the stereotyped roles of women in society. Some commended the particular attention paid by the country to women in the work-force and the various equality provisions in the Austrian codes. On the whole, the impression was that Austria had started very conscious work towards de facto equality between women and men. At the same time, most experts expressed concern about the lack of sufficient statistical information and deplored the fact that two documents, handed out during the meeting ("The economic role of women in Austria" and "Women and mass media in Austria"), which contained very valuable statistical data, had not been available earlier. A few experts shared the concerns expressed by the representative of the State party with regard to translation problems in connection with the submission of national reports.

187. One expert sought clarification on what she felt were two contradictory statements in the report, namely, that the provisions of the Convention could not be applied directly within the framework of the domestic legal order, but that the

Convention supplemented Austrian law, and its articles 1 to 4 were additions to the Constitution.

188. Some experts asked for more information on the procedure to be followed when making an appeal to the Constitutional Court. They wanted to know whether citizens could appeal directly or indirectly in cases of violations of any rights or only of constitutional rights and whether the costs of appeal were borne by the State. More clarification was sought on the Equal Treatment Act, the functions of the Equal Treatment Commission and on what was meant by the elimination of "open discrimination" under that Act in collective agreements. Several experts asked which mechanism was applied by the Equal Treatment Commission to control the implementation of the Convention and other legislative measures, what procedure had to be followed to bring a case before that Commission and who was entitled to appeal to the Commission. Some experts asked whether the Commission operated under the instructions of a government body, and several experts expressed astonishment at the small number of cases submitted to the Commission. They also asked whether any other cases concerning discrimination against women had been dealt with and whether any discriminatory measures had been subsequently declared null and void.

189. As regards the special administrative bodies in Austria dealing with women's matters, questions were asked about the specific functions of the Office of the State Secretary for General Questions relating to Women in the Federal Chancellery and the tasks of the special unit for women's problems within the Federal Ministry of Social Affairs which was created in 1983. Questions were also asked about the relationship of those two bodies to each other and to non-governmental organizations and their powers to impose sanctions. An expert asked whether the unit created in 1983 continued the programmes started by the former Office of the State Secretary for Matters relating to Working Women in the Federal Ministry of Social Affairs.

190. Several experts wanted to know whether any assessment of the activities to enhance the status of women had been made, whether as a result of media campaigns and major changes in school textbooks and television programmes people's attitudes had changed and whether research on assessing those changes had been undertaken. One expert asked whether and to what extent men were involved in attempts to change traditional attitudes and what was being done to encourage men to change their attitudes. More information was requested on the responsible authorities in the fields of information and education. One expert wanted to know whether the new ways of presenting women and men in textbooks applied also to pre-school educational materials. Another expert asked whether the choice of television programmes depended upon the good will of the media or whether an authority was responsible for imposing certain sanctions.

191. More information was sought on the situation with regard to role stereotyping and discrimination in advertising. It was asked whether employers advertising vacancies were allowed to specify that they were open only to applicants of a particular sex.

192. More statistical information was sought on the participation of women in political organizations and political parties at all levels, the number of women who exercised their right to vote and the percentage of women in elected bodies at lower and higher levels.

193. Several experts were somewhat surprised that Austria had made a reservation with regard to article 7 (b) of the Convention and asked for clarification. They wondered whether the reservation referred to the participation of women in the armed forces or to their access to public functions at certain levels. It was also asked whether military service was compulsory in Austria. Further questions referred to the percentage of women in the judiciary, in senior public service, in the diplomatic service and in international bodies. One expert inquired about the fields in which women ministers were appointed and whether the 20 women Members of Parliament had been the only female candidates.

194. As regards education, more statistical information was sought on education at all levels and especially on female student enrolment, the proportion of women who had completed secondary or post-secondary education as compared with men and the proportion of educated women compared with all women. One expert wanted to know in what types of careers female university graduates were engaged. Questions were asked about the types of trades women were entering under the special apprenticeship programme, about the role played by the Roman Catholic Church and about the situation of immigrant women. One expert asked for a copy of the book published in November 1981 as a result of a story competition that had been organized under the motto "Girls may whistle - boys may weep". Other experts asked whether education was compulsory in Austria and up to what level and which types of education were free. It was asked whether courses in handicrafts and domestic economy were taught to girls and boys or whether they had been abolished.

195. One expert asked whether the new educational programmes constituted an obligation for teachers or whether they had the character of suggestions only.

196. More statistical information was requested on the proportion of women and men in different occupational groups, at different levels, in the public and private sector and on the total number of gainfully employed persons. It was asked whether female unemployment existed and whether steps had been taken to reduce or even eliminate piece work. One expert asked whether a woman who had been dismissed on discriminatory grounds or had been refused employment on the ground of sex could take recourse action and to which relevant authority. She also inquired whether men as well as women with dependants had the right to contest a dismissal as being socially unjustified. Other experts asked about the part-time working system, about the protection of the rights of unpaid women in family business and about the reasons for prohibiting night work for women. They also wanted to know which types of work were forbidden for women, why a prospective employer was not forbidden to take sex into account in the selection of personnel, whether any problems had arisen in that respect and what were the criteria for the "best suited" applicant for public service. It was asked whether Austria intended to withdraw its reservation in respect of article 11 of the Convention.

197. Some experts asked about concrete examples of preferential treatment, whether discrimination in respect of remuneration for work of equal value and in the taxation system existed, why women were still earning the lowest salaries and what measures the Austrian Government envisaged to change that situation. Another expert was interested in the results contained in the report on the special programme adopted in November 1981 to assist women in public service. While one expert inquired whether discrimination was practised in Austria only in the private sector or also in regard to government posts, another expert thought that the Government, being the most important employer in Austria, was in the fortunate position of being able to give a good example to private employers. Other

questions referred to vocational guidance to take up non-traditional occupations, to professional training programmes, to the situation of women migrant workers, to the situation of ethnic minorities and to data on the conditions of work for women in various branches of industries.

198. Several experts made observations in connection with the question of maternity leave. Some asked whether paternity leave was being considered, whether women, after having taken suspended leave for child-care did not risk losing their jobs and whether public assistance in any form was given for child-care services. It was also asked whether women who had to take care of sick children were paid an allowance and, if so, whether the father was equally entitled to it. One expert wanted to know the percentage of women who took maternity leave in the public and in the private sectors. Another expert asked whether it was up to the discretion of women to decide on the type of work to be performed during pregnancy. One expert inquired whether the maternity allowance which had been raised for single mothers was still different from the allowance for married mothers.

199. More information was sought on the legal situation regarding abortion, and it was asked whether health services in Austria were private or paid for by the State. One expert asked how prostitution was dealt with in Austria and whether it was considered an offence.

200. As regards rural women, more information was requested on problems faced by rural women, their educational status and their employment possibilities. More clarification was sought on the helpers assigned to mothers active in business, farming or forestry, during the pre-natal and post-natal periods prescribed by law, and whether costs connected with such helpers were covered by the State or by private insurance.

201. Another question referred to the type of authorities that would arbitrate in cases of disagreement between the parents about the receipt of family allowances. An expert sought more information on the family and partner counselling services. More information was sought on the exercise of women's rights to establish a domicile following a divorce and on the extent to which women were economically independent, could administer their own property and deal with financial institutions.

202. Several experts requested more information on the forthcoming legislative amendments in criminal procedures in cases of marital violence and abused women. Some experts asked whether programmes for counselling men in domestic violence existed, whether studies on the magnitude of the problem had been made, what action had been taken to combat the phenomenon and what were the seven institutions referred to in the report for the protection of maltreated women. It was asked whether, apart from the husband, violence was also exercised by other male members of the family and whether a link between violence and alcoholism existed.

203. A few experts were concerned about the existing distinction between legitimate and illegitimate children, which had been abolished in other countries. Questions were asked about whether equality between the sexes existed as regards maintenance obligations, custody and guardianship and why legal guardians, instead of the mothers, had to take care of an illegitimate child. More information was sought as regards the right of and the procedure for adoption. Finally, it was asked whether women who lived in consensual unions had the same rights as married women.

204. The representative of Austria explained that the rank of constitutional law for articles 1 to 4 of the Convention meant that no legislation could be enacted in Austria that was contrary to those provisions. They were, however, non-self-executing, that is, laws and other provisions had to be enacted before those articles could be applied.

205. If the principle of equality had been violated, each person was entitled to file a complaint with the Constitutional Court within six weeks after the passing of a final decision in the last instance by an administrative authority or in order to challenge the legality of an ordinance or law. Such decisions or laws may be declared null and void. The representative enumerated a number of concrete examples and also stated that everyone in Austria was entitled to seek free legal aid.

206. As to the composition and functioning of the Equal Rights Commission he explained which members of the Government, autonomous chambers and trade unions were appointed for a period of four years by the Federal Minister for Social Affairs. Although only few cases had been dealt with by the Commission, they had far-reaching impact on collective and other labour agreements. The Commission dealt with cases of discrimination in the para-judicial field, and complaints could be filed with that body and the Labour Court simultaneously.

207. The tasks of the former State Secretary for Matters relating to Working Women in the federal Ministry of Social Affairs and her programmes and research work had been taken over by a whole unit in the same Ministry without any budget cuts. The installation of the State Secretariat for General Questions relating to Women in the Federal Chancellery made women's issues a government function and, by putting them in the centre of public attention, contributed to a change of attitude in the society. The office also held interdisciplinary negotiations with other ministers.

208. As regards women in the media, the representative of Austria mentioned a Commercial Advertising Committee attached to a ministry, which issued specific guidelines to advertising companies and dealt with pertinent complaints.

209. After having explained that "open discrimination" meant any discrimination contained in the explicit wording of a provision of law, he said that such "open" or "positive" discrimination was no longer contained in collective agreements and every endeavour was made to eliminate it anywhere else.

210. The legislative provisions concerning prostitution did not differentiate between women and men. Prostitution in public places and prostitution involving children and minors were forbidden; it was allowed, however, in places confined by the authorities, and was placed under medical control.

211. There were no restrictions in Austria on the participation of women in political parties and trade unions, and the State Secretary for General Questions relating to Women was trying to develop in women more self-confidence to run as candidates for political office by holding seminars and training programmes. Although there were currently only 20 women in Parliament, there were many more women candidates for the last elections.

212. As to the reservation made by Austria with regard to article 7 (b) of the Convention, the representative explained that it concerned only the exemption of women from military service. Austrian lawyers considered that there were

"objectively justifiable" reasons for such an exemption. Women were, however, included in the administration of the army. Military service was compulsory for men.

213. The representative gave statistical information on the participation of women in the diplomatic service. In the foreign service 48 per cent of the staff were women; 10.8 per cent were women diplomats.

214. An association subsidized by the Government had been conducting information campaigns for parents in order to change stereotyped behavioural patterns for pre-school children. The State Secretariat for General Questions relating to Women not only issued general guidelines for assuring a more realistic picture of both sexes in Austrian schoolbooks, it also carried out literacy campaigns for female migrant workers and programmes geared towards social fringe groups and linguistic minorities. The representative of Austria stated that in his country education was compulsory for nine years. School attendance, schoolbooks, vocational training, education in universities and high schools and transportation to and from schools or universities by public transport were free of charge for both sexes up to the age of 27. Students from low-income families could apply for scholarships, which covered their cost of living. The medical care of pupils and students was covered by the Austrian social security system. Women constituted 41.7 per cent of the total university population; from the breakdown by field of study it appeared that the majority of female students, i.e. 52.8 per cent, was enrolled in philosophy and science.

215. He explained that the trend towards higher education had continued for both sexes. The share of women with completed vocational training rose from 13 per cent to 19 per cent, and considerably more women graduated from schools of higher education. Yet there were still differences in professional qualifications between the sexes. Whereas more women than men held senior posts in the public service, less than 1 per cent of female graduates, compared with 16 per cent male graduates, held executive positions in private enterprises.

216. The representative stated that the advanced training programme for teachers was voluntary.

217. Concerning the special apprenticeship programmes for women, the representative of Austria explained that monthly subsidies were paid to enterprises that employed girls in jobs in which less than 30 per cent women were employed, and research and training programmes and media campaigns were carried out to motivate girls to take on non-traditional jobs. A special programme was also launched for the promotion of women in the civil service in order to change stereotypes and eliminate prejudices. It included special courses for women, the provision of day care shelters and better working conditions. Furthermore, by ministerial decree all job vacancies had to be announced without reference to sex. The sex of the applicant was equally irrelevant. Similar measures and improvements were aimed at in the private sector.

218. Although the incomes in the public sector were regulated by legislation, the wage difference between women and men in the public sector still came to 19 per cent - about 40 per cent in the private sector. A study carried out on the differentiating regulations for work performed by men and women under Austrian collective agreements had a strong impact on the Equal Treatment Act of 1979.

219. Generally, part-time employment incorporated no legislative disadvantages for employees, and the number of part-time employees was on the increase. The representative of the State party mentioned the special legislative provisions covering self-employed housewives. An additional measure to reduce piece-work was that the agreement of shop stewards in private enterprises must be obtained.

220. As regards job restrictions for women, it was stated that under certain legislative provisions the physical abilities of women had to be taken into account in the assignment of work and, consequently, a number of activities were forbidden to women. Night work was outlawed for women on the grounds of ILO Convention No. 89 and a number of special laws. Exceptions were only made for specific types of occupation and further exceptions were under consideration.

221. As regards the special provisions for the promotion and protection of ethnic minorities, the representative of Austria explained that no distinction was made between women and men.

222. The representative mentioned special measures to protect women against dismissal during and shortly after pregnancy. If a person had dependants, the law courts had to decide whether the dismissal was socially justifiable by taking into account the alimony responsibilities of the person to be dismissed.

223. As regards the system of taxation, he explained that couples were taxed separately in Austria and that a number of expenses, such as payment of alimony, were deductible from tax.

224. The representative of Austria stated that every employed person was entitled to paid leave of up to one week for looking after a sick close relative. Birth and family allowances were the same for single and married mothers. The maternity leave allowance for single mothers was one-third higher than that for married mothers. There were special emergency grants for single mothers up to the child's third year and a special child-care allowance for single mothers up to the child's sixth year. A small contribution for public child-care facilities had to be paid by the parents according to their income. Private child-care centres were run on a commercial basis, and most of them received government subsidies. Although paternity leave was under discussion, it was not likely to be introduced in the near future because of the reserved attitude of employers' organizations. Since 1975, abortion was allowed to be performed by a medical doctor up to the third month of pregnancy.

225. The representative mentioned about 200 family counselling centres in the country run by the State or by private organizations, which were available to everyone free of charge and gave advice on family planning and social, economic and psychological problems arising out of a partnership.

226. Self-employed women were entitled to the service of a helper assigned by the authorities for eight weeks before and after confinement. Only about 7 per cent of women in Austria worked in agriculture. A farmer's wife enjoyed medical care under the Austrian social security system and had the status of a self-employed housewife. She enjoyed all measures relating to maternity protection and the corresponding allowances. Female agricultural workers had the same entitlements as other workers.



227. The representative gave some statistical information on women who suffered under marital violence and stated that more women were reporting cases of abuse committed by men to the police. Marital violence was considered a justification for divorce and for leaving the common residence. Victims of sexual violence could seek refuge in self-administered shelters and make use of telephone hot lines or group therapy. The representative mentioned legislative and ministerial measures that had been initiated or were foreseen in case of sexual violence.

228. The representative of Austria stated that women could acquire and administer movable and immovable property and take out bank loans without prior consent of their husbands. Separation of property in marriage was foreseen under Austrian law if not otherwise decided upon by the spouses. In case of divorce the common savings and assets were split up according to rulings of the court.

229. As regards housekeeping and housework, surveys revealed that the pattern changed over the last 15 years and more men took part in the tasks of housekeeping and child-care.

230. The representative of Austria clarified that the terms "legitimate" and "illegitimate" children were in the report through an error of translation. The correct terms were children born in and out of wedlock. For children born in wedlock, the parents acted as legal representatives; for children born out of wedlock, those functions were fulfilled by the public youth welfare agency. Under a new law, which would be enacted soon, a single parent of either sex could be the legal guardian. After marriage both spouses could either request to bear the name of the husband or of the wife, the wife could also add her maiden name to her husband's name. Children born in wedlock had the common family name; children born out of wedlock bore the mother's maiden name. Concerning the family allowance, the representative stated that parents who lived together were free to choose which of the spouses received the allowance for which child. In cases of disagreements the authorities had to ensure that the benefit went to the parent who assumed the main responsibility for the child.

231. As to the question of adoption, it was stated that in Austria a person of either sex beyond a certain age was allowed to adopt a child under court authorization if the adoption served the well-being of the child and the prior consent of the child's close relatives had been obtained.